

REMARKS

The Examiner has provisionally rejected the claims under the judicially created doctrine of obvious type double patenting as being unpatentable over claims 1-17 of copending Application No. 09/892,042. In response thereto, Applicant has submitted a Terminal Disclaimer in this application disclaiming any time period which extends beyond the copending application. Accordingly, this rejection is no longer applicable.

The Examiner has rejected claims 1-16 under 35 USC § 102(e) as being anticipated by Needham et al. for the reasons set forth therein. Applicant respectfully submits that the present invention, as set forth by independent claims 1, 6 and 11, are not taught or suggested by the Needham reference. The Needham reference is directed to a peer to peer sharing system as more fully described in paragraphs 16 and 17 of the publication wherein the user sends index information 22 describing part of his collection to be shared with a third party such as Bob's system 12. The index information comprises data to a unique and very hard to guess file identifier, caption or title, image thumbnail, creation date, creator name, file size, format type and other identifying information. The complex unique identifier is used to provide restricted access as it is highly unlikely that a person would guess a very complicated identifier (see paragraph 16). Once the recipient receives the information, the recipient can then access the files that are on the sender's computer. This file peer to peer sharing system, in order to prevent the recipient from further accessing the referenced file, they must literally provide a new and unique ID to the file to revoke any privileges. New index information is needed in order to share additional image files.


The present invention is directed to a method, system and computer software program for managing digital images of a user remotely from a server that has access to the user computer. The software program permits automatic access to at least one digital image file on the user computer by a third party and monitors access by the third party without any further authorizations by the user. Thus, it is the server that controls access to the image storage device of the user. The server acts as an intermediary between the third party and the server for controlling access by the third party. In the Needham reference there is a direct relation from peer to peer, thus on this basis alone the Needham reference

could not teach or suggest the invention as taught and claimed by Applicant. Furthermore, the present invention requires monitoring access by the third party without any further authorization by the user. There is no such monitoring taught or suggested in the Needham reference. Additionally, in the Needham reference, in order to allow access to additional images that are placed in a user computer, the Needham reference requires the sending of additional index information providing the additional identifier information. This is in contrast to the present invention where the server controls access by third parties. Thus, there is no need for sending of additional index information that is required of Needham reference to allow access. All that is required in the present invention is that the server that controls access have identification of the third party that may have access to the user data through the image. Applicant respectfully submits that there is no teaching or suggestion of controlling access by a server between the user computer and the peer to peer relationship. As previously mentioned, this is contrary to the direct peer to peer relationship set forth in Needham.

Further, since the Needham reference is a peer to peer relationship, there is no teaching or suggestion of third party paying an access fee for use in downloading images from the user image file as set forth in claim 3, nor where the service provider assigns a predetermined credit to the account of the downloaded image and the debit account of the third party downloading the image, and a predetermined credit to the service provider as set forth in claim 4, nor is there taught or suggested the providing of a report to the user regarding access to the digital image file as set forth in dependent claim 5.

In view of the foregoing it is respectfully submitted that the claims in their present form are in condition for allowance and such action is respectfully requested.

Respectfully submitted,


Attorney for Applicant(s)
Registration No. 27,370

Frank Pincelli/phw
Rochester, NY 14650
Telephone: 585-588-2728
Facsimile: 585-477-4646